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Note verbale dated 29 October 2004 from the Permanent Mission of Brazil to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of Brazil has the honour to transmit the report of the Government of Brazil to the Committee (see annex).

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Annex to the note verbale dated 29 October 2004 from the Permanent Mission of Brazil to the United Nations addressed to the Chairman of the Committee

Report of the Federative Republic of Brazil submitted in accordance with Security Council resolution 1540 (2004)

28 October 2004

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1. Operative Paragraph 1

Decides that all States shall refrain from providing any form of support to non-State actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery;

Brazil is fully committed to the objectives of non-proliferation of weapons of mass destruction (WMDs) and to the international efforts aimed at preventing non-State actors from gaining access to those weapons, as well as to related materials and technology.

For Brazil, a consistent and sustainable long-term international strategy must be necessarily followed by concrete measures in the field of disarmament. Brazil is convinced that only the complete elimination of WMDs can ensure that these weapons will never fall in the hands of non-State actors.

Brazil also believes that an effective combat to the threat posed by non-State actors gaining access to WMDs requires not only the implementation of consistent and adequate national legislation by Member States but also the engagement and cooperation of the international community. For that reason, besides establishing and implementing a vigorous national legislation on this subject, Brazil has adhered to and fully complies with all obligations stipulated by relevant international instruments in the fields of disarmament and non-proliferation.

Brazil has been implementing, in full, all obligations contained in Security Council Resolutions 1373 (2001) and 1540 (2004).

ii. Operative paragraph 2

Decides also that all States, in accordance with their national procedures, shall adopt and enforce appropriate effective laws which prohibit any non-State actor to manufacture, acquire, possess, develop, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery, in particular for terrorist purposes, as well as attempts to engage in any of the foregoing activities, participate in them as an accomplice, assist or finance them;

Brazil has incorporated all guidelines related to control and protection of sensitive materials, equipment and technology that may be used for the production of WMDs stipulated by international treaties, such as Tlatelolco, NPT, CWC, BWC and CTBT, and by export regime controls to which the country is Party, such as the NSG and the MTCR. It has also integrated into its national legislation other guidelines adopted by international organizations, namely the IAEA and the IMO. Besides that, Brazil possesses an adequate and efficient national legislation that defines and penalizes, among others, crimes of terrorism and sabotage, extensive to all actors that may provide any form of support, active or passive, to such acts. The Brazilian national legislation is grounded on three essential legal instruments:

1) the Federal Constitution of 1988[1] determines that "the practice of (...) of terrorism and crimes defined as heinous crimes shall be considered by law as non-bailable and not subject to grace or amnesty, and their principals, agents and those who omit themselves while being able to avoid such crimes shall be held liable";

2) the National Security Act[2] (Act no. 7.170, of December 14, 1983) defines and penalizes crimes against national security, the political and social order, including those of terrorism, sabotage and transfer, storage and dissemination of military material;

3) the Heinous Crimes Act (Act no. 8.072, of July 25, 1990)[3] defines, as heinous (crimes of particular gravity, for which severe penalties are provided), offences and crimes defined under the Brazilian Penal Code[4], rendering them non-bailable and not subject to amnesty, grace or indult. Crimes of terrorism, genocide and of the inducement of epidemics by the release of pathogens into the atmosphere are included in this list.

- Legal controls on transfer, production and storage of sensitive materials, related equipment and technology

[1] Brazilian Federal Constitution, Article 5th, XLIII. Text in English available at: http://webthes.senado.gov.br/web/const/const88.pdf

[2] Published in the "Official Journal of the Union" ("Diário Oficial da União") in December 15, 1983. Texts in Portuguese of all Acts quoted in this report are available at: https//www.planalto.gov.br

[3] Published in the "Official Journal of the Union" in July 26, 1990. Text in Portuguese is available at https://www.planalto.gov.br

[4] Decree-Law no. 2.848 of December 12, 1940, revised by Law no. 9.777 in December 26, 1998. Text in Portuguese available at https://www.planalto.gov.br

Brazil exerts control on international transfers of materials with possible applications to WMDs in accordance with Act no. 9.112, of October 10, 1995[5]. This Act defines as sensitive goods: all those with possible military applications; dual-use goods; and those that may be used in nuclear, chemical and biological fields, as well as their means of delivery. It also establishes export controls on these goods and on services directly related to them.

A. Nuclear

Besides the obligations derived from the Non-Proliferation Treaty (NPT) and the incorporation in its national legislation of the guidelines adopted in the context of the Nuclear Suppliers Group (NSG), of which it is a member, Brazil has developed specific national legislation for the control of every nuclear activity, including definition of offences and stipulation of penalties for activities not authorized by the Government in this field.

- the Federal Constitution of 1988[6] determines that "all nuclear activity within the national territory shall only be admitted for peaceful purposes and subject to approval by the National Congress";

- Act No. 4.118, of August 27, 1962[7], creates the National Commission for Nuclear Energy (CNEN), determines that all activities related to the nuclear field (transfer, possession, development, production etc) are a monopoly of the State; provides that control of these activities is incumbent upon CNEN; defines as a crime against national security the clandestine export or import of nuclear materials (Article 39) and forbids the possession or transfer of nuclear materials, including sub-products, without explicit authorization from CNEN, even within the internal market (Article 40).

- Act No. 6.453, of October 17, 1977[8], establishes civil responsibility for nuclear damages and criminal responsibility for acts related to nuclear activities. It defines and penalizes the production, processing, supplying and use of nuclear material without necessary authorization or for other purposes than those allowed by law (Article 20), as well as the export and import of nuclear material without due official license (Article 25). If related to terrorist acts, the penalties associated to these offences are cumulative to those provided for crimes of terrorism.

B. Chemical

Besides obligations derived from the CWC, adopted internally by Legislative Decree no. 9, of March 6, 1996[9], Brazil exerts strict control over all activities involving transfer, production and storage of chemical materials.

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[5] Published in the "Official Journal of the Union" in October 11, 1995. Text in Portuguese available at https://www.planalto.gov.br

[6] Federal Constitution, Article 21, paragraph XXIII, literal "a".

[7] Published in the "Official Journal of the Union" of August 27, 1962. Text in Portuguese available at https://www.planalto.gov.br

[8] Published in the "Official Journal of the Union" of October 17, 1977. Text in Portuguese available at https://www.planalto.gov.br

[9] Published in the "Official Journal of the Union" of February 2, 1996. Text in Portuguese available at http://www.mct.gov.br/legis/decretos/9_96.htm

- Decree No. 2.074, of November 14, 1996[10], establishes the Inter-ministerial Commission for the application of the provisions of the International Convention on the Prohibition of Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction (CWC) and defines the obligations and responsibilities derived from the CWC. The decree provides that no natural or legal person shall carry out or contribute in any form to activities forbidden by the CWC or refuse to collaborate with the Inter-ministerial Commission in the conduct of its work (Article 3, paragraphs 1, 2 and 3).

- Decree no. 3.665, of November 20, 2000[11], updates document "Regulations for the Supervision of Controlled Products" (R-105), contained in Decree no. 24.602, of July 6, 1934[12]. This decree stresses the need for formal authorization by the Brazilian Army to any activities related to the production, reprocessing, maintenance, industrial use, handling, sportive use with the purpose of collection, export, import, customs clearance, storage, trade and trafficking of products contained in the Annex I of the document "Regulations for the Supervision of Controlled Products"(R-105), where all chemical agents dealt with by the CWC are listed.

- Provisional Measure No. 2.186-16, of August 23, 2001[13], forbids "access to genetic heritage with the aim of (…) developing biological and chemical weapons" (Article 5).

C. Biological

Besides the obligations derived from BWC and provisions contained in the Brazilian Penal Code (Decree no. 2.848, of December 7, 1940) which defines and penalizes various crimes related to the non-authorized manipulation of biological agents[14], the Brazilian legislation presents a legal framework that imposes a strict control of all activities in the biological field:

- the Federal Constitution of 1988 (Article 225, paragraph 1, II and V) determines that "it is incumbent upon the Government (…) to control entities engaged in research and manipulation of genetic material" and to "control the

[10] Published in the "Official Journal of the Union" of November 11, 1996. Text in Portuguese available at http://www.mct.gov.br/legis/decretos/2074_96.htm

[11] Published in the "Official Journal of the Union" of November 20, 2000. Text in Portuguese available at https://www.planalto.gov.br

[12] Published in the "Official Journal of the Union" of July 6, 1934. Text in Portuguese available at https://www.planalto.gov.br

[13] Published in the "Official Journal of the Union" of August 24, 2001. Text in Portuguese available at http://www.mct.gov.br/legis/mp/mp2186-16.htm

[14] Among other provisions contained in the Brazilian Penal Code, see: "to offend someone's physical integrity or health"(Article 129); "to carry out an action, with the purpose of transmitting to someone a grave infection with which one is contaminated, capable of transmitting the infection" (Article 131); "to expose the life or health of another to direct and imminent danger" (Article 132); "to disseminate disease or plague that may cause damage to forests, cultivation or livestock of economic utility" (Article 259); "to induce an epidemics through the release of pathogens into the atmosphere" (Article 267); "to violate a determination by public authorities, designed to prevent the introduction or release of an infectious disease" (Article 268); "for a medical doctor, to refrain from informing to the public authorities about a disease that is of compulsory notification" (Article 269); "to poison drinkable water of general or private use, or food or medicine designed for consumption" (Article 270).

production, sale and use of techniques, methods and substances which represent a risk to life (…)";

- Act No. 8.974, of January 5, 1995[15], introduces security norms and supervision mechanisms on the use of techniques of genetic engineering in the construction, breed, manipulation, transport, commercialization, consumption, release to the environment and disposal of genetically modified organisms (GMOs); establishes the National Technical Bio-safety Commission[16] (CTNBio), which is responsible for the supervision of those activities; and prohibits physical persons, while acting as independent autonomous agents, to carry out activities and projects, including teaching, scientific research, technological development and industrial production which may involve genetically modified organisms in the national territory.

- Provisional Measure No. 2.186-16, of August 23, 2001[17], forbids "access to genetic heritage with the aim of (…) developing biological and chemical weapons" (Article 5).

- Provisional Measure No. 2.191-9, of August 23, 2001[18] determines that, besides controlling and monitoring activities and projects related to GMOs, it is incumbent upon the National Technical Bio-safety Commission to establish the bio-safety level to be applied to the GMOs and their uses, as well as the safety measures and procedures for their use, according to standards established by Law.

D. Means of delivery

Even before becoming a member of the MTCR, Brazil had incorporated into its national legislation all control guidelines adopted by regime members, which are contained in the following legal texts:

- Exposition of Reasons No. 35, of December 26, 1994[19], establishes general guidelines for the export of goods and services related to missiles. Contains instructions for conducting exports of goods and services directly related to missiles, and establishes a list of goods and services directly related to missiles that are subject to control.

- Act No. 9.112, of October 10, 1995, defines parameters for international transfers of sensitive goods.

- Decree No. 3.665, of November 20, 2000, updates document "Regulations for the Supervision of Controlled Products" (R-105), contained in Decree no.

[15] Published in the "Official Journal of the Union" of January 6, 1995. Text in Portuguese available at http://www.mct.gov.br/legis/leis/8974_95.htm#Art.%207°

[16] Regulated by Decree No, 1.752, of December 20, 1995 (published in the "Official Journal of the Union" of December 21, 1995) and updated by Decree No. 2.577, of April 30, 1998 (published in the "Official Journal of the Union" of May 4, 1998.

[17] Published in the "Official Journal of the Union" of August 24, 2001. Text in Portuguese available at http://www.mct.gov.br/legis/mp/mp2186-16.htm

[18] Published in the "Official Journal of the Union" of August 24, 2001. Text in Portuguese available at http://www.mct.gov.br/legis/mp/mp2191-9.htm

[19] Published in the "Official Journal of the Union" of December 30, 1994. Text in Portuguese available at https://www.planalto.gov.br

24.602, of July 6, 1934. This legal instrument provides, among other issues, for the control of means of delivery, parts and propellants.

E. Combating money-laundering

Brazil has been implementing a consistent policy for combating terrorism and organized crime, including by adopting measures designed to suppress their funding sources. In this context, an extensive legislation related to combating money-laundering has been adopted, which together with international agreements and regimes consecrated to this subject, provides for efficient measures aiming at curtailing money-laundering. The most relevant legal instruments in this area are:

- Act 9.613, of March 3, 1998[20], as well as its subsequent revisions[21], which define and penalize crimes related to money-laundering. It determines that the supervision and repression of illicit financial activities is incumbent upon the "Financial Activities Control Council" (COAF), within the Ministry of Finance. Along with COAF, the Department for Anti-Money-Laundering Compliance, Surveillance of Foreign Exchange Market and Disciplinary Actions (DECIF) of the Brazilian Central Bank, plays an important role in these efforts. This Act was recently revised in order to include, among crimes of money-laundering, the financing of terrorism[22].

- Decree No. 4.991, of February 18, 2004[23], created, within the Ministry of Justice, the Department for Recovering Assets and International Juridical Cooperation (DRCI), which is responsible for, among other functions, identifying threats and defining effective and efficient policies related to money-laundering, as well as fostering a culture of combat against these illicit acts. It is incumbent upon the DRCI to coordinate the "Cabinet for Integrated Management on Preventing and Combating Money-Laundering" (GGI-LD), established in December of 2003, which is responsible for maintaining a fluid and constant coordination among governmental institutions involved in the combat against money-laundering and organized crime. Within the GGI-LD, the "2004 National Strategy for Combating Money-Laundering" (ENCLA 2004) is being implemented, with very positive results to date[24].

[20] Published in the "Official Journal of the Union" of March 4, 1998. Text in Portuguese available at https://www.planalto.gov.br

[21] Act No. 10.647, of June 11, 2002, published in the "Official Journal of the Union" of June 12, 2002; Act No. 10.683, of May 28, 2003, published in the "Official Journal of the Union" of May 29, 2003; Act No. 10.701 of July 9, 2003, published in the "Official Journal of the Union" of July 9, 2003. All texts in Portuguese available at https://www.planalto.gov.br

[22] Act No. 10.701, of July 9, 2003., published in the "Official Journal of the Union" of July 9, 2003.

[23] Published in the "Official Journal of the Union" of February 2, 2004. Text in Portuguese available at https://www.planalto.gov.br

[24] Information about ENCLA, in Portuguese, is available at http://www.mj.gov.br/drci/lavagem/encla.htm

iii. Operative paragraph 3, literal (a)

Decides also that all States shall take and enforce effective measures to establish domestic controls to prevent the proliferation of nuclear, chemical, or biological weapons and their means of delivery, including by establishing appropriate controls over related materials and to this end shall:

(a) Develop and maintain appropriate effective measures to account for and secure such items in production, use, storage or transport;

Brazil does not possess - and has never developed - nuclear, chemical and biological weapons. In conformity with its obligations derived from international instruments (Tlatelolco, NPT, CWC and BWC) and from existing national legislation, all nuclear, chemical and biological weapons are forbidden within the national territory.

Brazil applies control measures on materials, equipment and technologies that may be used in the production of WMDs, and has developed an adequate legislation for holding responsible and criminalizing unauthorized activities in this field, including those carried out by non-State actors.

The governmental organ responsible for establishing procedures, and other legal and administrative mechanisms necessary for the full implementation of export controls of sensitive goods and services, is the Inter-ministerial Commission for Export Control of Sensitive Goods, established within the Presidency of the Republic by Act No. 9.112, of October 10, 1995. Its competence was defined by Decree No. 4.214[25], of April 30, 2002.

National lists of sensitive goods, as well as a list of conventional materials for military use subject to the National Policy of Export of Materials for Military Use (PNEMEM), are contained in Inter-ministerial Regulation No. 631 MCT/MD, of November 13, 2001[26], issued in accordance with the prerrogatives conferred to the Ministries of Science and Technology and of Defense.

A. Nuclear

The organ responsible for implementing control measures is the National Commission for Nuclear Energy (CNEN), established by Act No. 4.118, of August 27, 1962. CNEN regulates and supervises all nuclear activities in Brazil. It is also responsible for primary interaction with the Brazil-Argentine Agency for Accounting and Control of Nuclear Material (ABACC) and for implementation of the Quadripartite Agreement between Brazil, Argentina, ABACC and IAEA (December 13, 1991), with regard to the control of nuclear material used in Brazilian facilities, which are under comprehensive IAEA and ABACC safeguards.

[25] Published in the "Official Journal of the Union" of May 2, 2002. Text in Portuguese available at https://www.planalto.gov.br

[26] Published in the "Official Journal of the Union" of November 16, 2001. Text in Portuguese available at http://www.mct.gov.br/legis/portarias/631_2001.htm

ABACC is responsible for the administration and application of the Common System of Accounting and Control (SCCC) in all nuclear activities in Brazil and Argentina, with a view to ensuring that no material is diverted or used in an inappropriate or unauthorized manner, in conformity with the purposes of the Bilateral Agreement.

Brazil and Argentina are committed to prohibit and prevent in their respective territories, and to abstain from carrying out, promoting or authorizing, directly or indirectly, or from participating, in any way, in the testing, use, manufacture, production or acquisition by any means of any nuclear explosive device.

CNEN is the organ responsible for licensing nuclear facilities, by evaluating, among other aspects, conditions for their safe operation. It establishes procedural norms for extraction and manipulation activities in uranium/thorium mines. Its technical regulations and procedures of control regulate the use of nuclear material, including its transfer, storage and transport, in order to prevent unauthorized use, to detect possible diversions and to ensure compliance with obligations imposed by safeguard agreements (ABACC and IAEA).

B. Chemical

By force of Decree No. 3.665 of November 20, 2000 (R-105), which established supervision mechanisms for activities carried out by natural and legal persons on storage, use and transport of controlled products, it is incumbent upon the Brazilian Army to control chemical agents, its parts and means of delivery (Articles 1, 2, 7, 10, 39 and 40).

The "Inter-ministerial Commission for the application of the provisions of the International Convention on the Prohibition of Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction", created by Decree No. 2.074 of November 14, 1996, is responsible for the implementation of the obligations derived from the CWC and the surveillance of all activities related to the Convention.

C. Biological

Besides the responsibilities incumbent upon the Brazilian Army in controlling biological agents (Decree No. 3.665, of November 20, 2000 (R-105)), the National Technical Bio-safety Commission also plays a role, by force of Act No. 8.974 of January 5, 1995 and of Provisional Measure No. 2.191-9 of August 23, 2001, in the monitoring and supervision of use of techniques of genetic engineering in the construction, breeding, manipulation, transport, commercialization, consumption, release to the environment and disposal of genetically modified organisms (GMOs).

D. Means of delivery

Decree No. 3.665 of November 20, 2000 (R-105) determines the responsibility of the Brazilian Army in controlling products with destructive power or any other property that may pose a risk to natural and legal persons (arms, explosives, pyrotechnic materials, ammunition, parts and components). With regard to activities related specifically to the production, development and commercialization of materials and equipment that may be used in the fabrication of missiles, this control is exercised by the Army Command. With regard to the transport of these products, requirements established by the Navy Command (in case of maritime transportation), by the Air Force Command (air transportation) or by the Army Command (terrestrial transportation) must be observed.

iv. Operative paragraph 3 literal (b)

(b) Develop and maintain appropriate effective physical protection measures;

Brazil has incorporated in its legislation all norms related to the protection of sensitive materials and equipment derived from the various international agreements and control regimes to which the country is a party, as well as guidelines adopted by international organizations, such as IAEA and IMO. Brazil has also developed and implemented an adequate and efficient legislation in this field.

Regarding the transportation of sensitive goods (nuclear, chemical and biological), it is incumbent upon the Ministry of Transport to define the rules and procedures applicable throughout the national territory. Regulation No. 204, of May 20, 1997[27], updated by Resolution No. 420/2004, of February 12, 2004[28], contains the "Complementary Instructions to Regulations for Road and Railway Transportation of Dangerous Products"[29].

A. Nuclear

The National Commission for Nuclear Energy (CNEN) is the organ responsible for establishing general principles, norms and basic requirements for the physical protection of operational units whose activities are related to the production, usage, processing, reprocessing, manipulation, transport or storage of materials relevant to the Brazilian Nuclear Program. Those regulations, based on AIEA document INFCIRC 225, are available at CNEN's website[30].

The Brazilian Government has created a Protection System for the Brazilian Nuclear Program - SIPRON, through Decree-Law No. 1.809, of October 7, 1980[31], later regulated by Decree No. 2.210, of April 22, 1997[32]. This organ, of mixed membership, comprises representatives of Federal, State and Municipal Governments, private sector and foundations, which may have attributions related to the Brazilian Nuclear Program. It seeks to ensure integrated planning, coordination of actions and continued implementation of procedures aimed at responding to safety necessities related to Brazilian nuclear activities, facilities and projects, especially of personnel involved, as well as of the civilian population and of the environment.

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27 Published in the "Official Journal of the Union" of May 26, 1997. Text in Portuguese available at http://www.transportes.gov.br

28 Published in the "Official Journal of the Union" of April 31, 2004. Text in Portuguese available at http://www.transportes.gov.br

29 Full text, in Portuguese, of the "Complementary Instructions to Regulations for Road and Railway Transportation of Dangerous Products" (Annex I to Regulation No. 204) is available at http://www.transportes.gov.br/BaseJuridica/ProdutosPerigosos/AnexoPort204.htm

30 Texts, in Portuguese, of the relevant Regulations are available at http://www.cnen.gov.br/seguranca/normas.asp

31 Published in the "Official Journal of the Union" of October 8, 1980. Text in Portuguese available at http://www.mct.gov.br/legis/decretos/1809_80.htm

32 Published in the "Official Journal of the Union" of April 23, 1997. Text in Portuguese available at http://www.mct.gov.br/legis/decretos/2210_97.htm

B. Chemical

Provisions for the protection of controlled chemical materials, as well as definition of standards for the licensing of activities in this field by natural or legal persons, including necessary requirements, are contained in Decree No. 3.665, of November 20, 2000.

C. Biological

General principles applied to the security of biological materials are contained in Provisional Measure No. 2.186-16, of August 23, 2001, in which protection measures and restrictions on the access to genetic heritage and associated traditional knowledge are defined. The Provisional Measure also regulates the access to, and transfer of technology for the conservation and use of genetic heritage. Specific norms are stipulated by the National Technical Bio-safety Commission, especially with regard to genetically modified organisms.

It is incumbent upon the National Sanitary Surveillance Agency (ANVISA) to establish norms and to exert control over activities in the pharmaceutical field. Specific norms for the licensing of activities and for the production of medicine are contained in Resolution RDC No. 210/2003[33]. These norms aim also at ensuring the quality of medicine and to prevent the release of infectious agents into the atmosphere.

D. Means of delivery

Relevant legislation is contained in Decree No. 3.665, of November 20, 2000 (R-105). It establishes regulations for the adequate supervision of protection measures related to products under control (means of delivery, its parts and propellants), the implementation of which is required from natural and legal persons.

[33] Published in the "Official Journal of the Union" of September 3, 2003. Text in Portuguese available at http://e-legis.bvs.br/leisref/public/showAct.php?id=12422#'

v. Operative paragraph 3 literal (c)

(c) Develop and maintain appropriate effective border controls and law enforcement efforts to detect, deter, prevent and combat, including through international cooperation when necessary, the illicit trafficking and brokering in such items in accordance with their national legal authorities and legislation and consistent with international law;

It is incumbent upon the Ministry of Finance, through the Federal Revenue and Customs Secretariat (SRF), to exert supervision and control of foreign trade, in accordance with Act No. 9.649, of May 27, 2004[34] and with Decree-Law No. 37, of November 18, 1966[35].

All information concerning international trade transactions are contained in the Foreign Trade Integrated System (SISCOMEX), which allows for the verification of every operation in relation to a specific authorization. In the case of commercial operations related to the export of sensitive goods, these can only occur once authorized by the General Coordination Office for Sensitive Materials, within the Ministry of Science and Technology (CGBE/MCT). For exports of nuclear material, it is also necessary to have previous authorization from the National Commission for Nuclear Energy (CNEN).

Transgressors are subject to a number of penalties established, among other instruments, by the Brazilian Penal Code (Decree-Law No. 2.848, of 1940) and by Act No. 9.112 of October 10, 1995.

Besides SRF, the Department of Federal Police (DPF), within the Ministry of Justice, also has competence in this area. In coordination with the Brazilian Armed Forces, DPF exerts supervision over border areas and has primary responsibilities in combating all forms of illicit trafficking.

The Brazilian Armed Forces have subsidiary responsibilities in maintaining surveillance and control over terrestrial, maritime and airspace borders. It is also incumbent upon them to implement preventive and repressive actions against trans-border and environmental offences, acting on their own or in coordination with other organs of the Executive branch. With regard to airspace control, the Brazilian Armed Forces count on the Brazilian Airspace Control System (SCEAB), which brings together all Integrated Centers for Air Defense and Airspace Control (CINDACTA), covering the whole country, and the System for the Vigilance and Protection of the Amazon (SIVAM/SIPAM).

[34] Published in the "Official Journal of the Union" of May 28, 1998. Text in Portuguese available at https://www.planalto.gov.br
[35] Published in the "Official Journal of the Union" of November 21, 1966. Text in Portuguese available at https://www.planalto.gov.br

vi. Operative paragraph 3 literal (d)

(d) Establish, develop, review and maintain appropriate effective national export and trans-shipment controls over such items, including appropriate laws and regulations to control export, transit, trans-shipment and re-export and controls on providing funds and services related to such export and trans-shipment such as financing, and transporting that would contribute to proliferation, as well as establishing end-user controls; and establishing and enforcing appropriate criminal or civil penalties for violations of such export control laws and regulations;

The development and production of weapons of mass destruction in Brazil are prohibited by the Federal Constitution of 1988 and existing international obligations. National controls apply, therefore, to precursor goods and technologies. Export, re-export, transit and transportation of these goods and technologies are controlled so as to ensure their exclusive use for peaceful purposes.

The General Coordination Office for Sensitive Materials, within the Ministry of Science and Technology (CGBE/MCT), the competence of which is provided by Regulation No. 49, of February 16, 2004, is the organ responsible for controlling imports, exports and re-exports of sensitive goods. The CGBE implements controls and authorizes transfers of items contained in the National Lists of Control of Sensitive Goods and Technologies, after necessary consultations with other governmental organs involved. This activity is undertaken on-line, through the Foreign Trade Integrated System (SISCOMEX). This system enables the automatic detection of non-authorized imports, exports and re-exports, by centralizing all information on transfers at Brazilian borders. Penalties for fraudulent exports attempts are established, among other instruments, by Act No. 9.112, of October 10, 1995.

On a case-by-case analysis of transfer requests, the CGBE may require the issuance of a "Statement of End-Use/User" by the Government of the State to which the goods will be exported to, which will be examined accordingly. The CGBE also takes part in the preparation of these statements when the Brazilian Government is required to do so. In these cases, it is incumbent upon the CGBE to supervise the implementation of the assurances provided in the Statement by the contracting party.

vii. Operative paragraph 6

Recognizes the utility in implementing this resolution of effective national control lists and calls upon all Member States, when necessary, to pursue at the earliest opportunity the development of such lists;

It is incumbent upon the Inter-ministerial Commission for Export Controls of Sensitive Goods, in conformity with Article 5 of Act No. 9.112, of October 10, 1995, to prepare, update and publicize lists of sensitive goods under export controls.

The current version of the list of controlled sensitive goods was established by Inter-ministerial Regulation No. 631 MCT/MD, of November 13, 2001. This Regulation updates the List of Sensitive Goods and the List of Conventional Materials for Military Use subject to the National Policy of Export of Materials for Military Use (PNEMEM), in accordance with the competences of the Ministries of Science and Technology and of Defense, by revising the items contained in the Annexes of those lists. The regulation establishes, in Article 2, that it is "incumbent upon the Ministry of Defense to update the list contained in Annex I and, to the Ministry of Science and Technology (to update) the list contained in Annex II, which refers to items in the chemical area and means of delivery".

In the nuclear field, Decree No. 1.861, of April 12, 1996, regulated Act No. 9.112, of October 10, 1995, and established national guidelines for the export of sensitive goods and services. These guidelines impose procedures for Brazilian exports of any related equipment, material or technology identified under the List of Nuclear Equipment, Material and Technology or under the List of Dual-Use Equipment and Material and Related Technology, that may be applicable in nuclear activities, which were established by Regulation No. 61, of April 12, 1996, by the former Strategic Affairs Secretariat of the Presidency of the Republic - SAE/PR.

Both lists are updated periodically, with an aim to keeping them in line with Brazilian legislation and with decisions adopted within the Nuclear Suppliers Group (NSG). This revision activity, incumbent upon the Inter-ministerial Commission for Export Controls of Sensitive Goods, is provided by Decree No. 4.214, of April 30, 2002. This Decree also established the competences of the Inter-ministerial Commission. Provisional Measure No. 2.123-30, of March 27, 2001, determined that the Ministry of Science and Technology would coordinate the works of Inter-ministerial Commission.

In the chemical area, Ministerial Regulation No. 804, of December 13, 2001, publicized the lists of substances identified by the CWC that are subject to export controls by the Ministry of Science and Technology. Likewise, Regulation No. 275, of April 23, 2002, established import controls.

In the biological area, Normative Instruction No. 1, of July 8, 2002, by the Ministry of Agriculture, Livestock and Food Supply (MAPA), establishes norms for the import of materials designed for scientific research, including organisms for biological control and other specific purposes. In a meeting held in September 2004, the Inter-ministerial Commission for Export Controls

of Sensitive Goods decided to establish a working group which will be responsible for defining criteria for the preparation of a national control list in the biological area.

Regarding means of delivery, Exposition of Reasons No. 35, of December 12, 1994 (EM 35/94 - SAE/PR) established General Guidelines for Exports of Goods Related to Missiles and Directly Related Services, and Instructions for the Conduct of Exports of Goods Related to Missiles and Directly Related Services, as well as the List of Goods Related to Missiles and Directly Related Services.

viii. Operative paragraph 8 literal (a)

Calls upon all States:

(a) To promote the universal adoption and full implementation, and, where necessary, strengthening of multilateral treaties to which they are parties, whose aim is to prevent the proliferation of nuclear, biological or chemical weapons;

According to the Brazilian legal system, international agreements to which Brazil is party have the same status as internal laws. They are thus compulsory to State and non-State actors subject to national jurisdiction. In this regard, it is important to note that Brazil is party to the following treaties, agreements and international regimes related to disarmament, non-proliferation and control of sensitive technologies and materials:

- International Atomic Energy Agency - IAEA

Brazil has been a member of the IAEA since 1957. It participates in an active and constructive manner in the work of the Agency, with the aim of ensuring the right to the peaceful use of nuclear technology and to promote international cooperation in this field.

- Treaty of Tlatelolco (Treaty for the Prohibition of Nuclear Weapons in Latin America and the Caribbean)

Subscribed by Brazil on May 9, 1967, the Treaty entered into force for Brazil on September 16, 1994. The Treaty established the first nuclear weapon free zone of the world in an inhabited region. It aims at contributing to nuclear non-proliferation, to promote disarmament and to ensure the use of nuclear materials and facilities for exclusively peaceful purposes. It is also the first international legal instrument to define a nuclear weapon. Among its provisions are the so-called "negative security assurances", which oblige the five nuclear weapon States to respect the non-nuclear status of the region and to renounce the use (and to threat of use) of nuclear weapons against States Parties to the Treaty.

- Bilateral Agreement between Argentina and Brazil for the Exclusively Peaceful Use of Nuclear Energy

In August 20, 1991, Brazil and Argentina bilaterally committed themselves to use nuclear material and facilities under their jurisdiction or control for exclusively peaceful purposes. Consequently, they have undertaken to prohibit and prevent, in their respective territories, and to abstain from carrying out, promoting or authorizing, directly or indirectly, or from participating in any way in the testing, use, manufacture, production or acquisition by any means of any nuclear weapon, and in the receiving, storing, installing, deploying, or possessing in any other form any nuclear weapon.

- Brazil-Argentine Agency for Accounting and Control of Nuclear Materials - ABACC

Established by the Bilateral Agreement between Argentina and Brazil for the Exclusively Peaceful Use of Nuclear Energy, in August 1991, ABACC is an entity with international legal personality, aimed at administering and implementing the Common System of Accounting and Control of Nuclear Materials (SCCC). This system comprises a number of procedures applicable to all nuclear material in all nuclear activities undertaken in Brazil and Argentina, with a view to ensuring both parties of the exclusively peaceful use of such materials and technologies.

- Quadripartite Agreement between Argentina, Brazil, ABACC and IAEA for the Application of Safeguards

By means of this Agreement, signed in December 13, 1991 and ratified in February 24, 1994, Brazil undertook to accept safeguards, carried out by IAEA, on all nuclear materials in all nuclear activities within its territory, under its jurisdiction and carried out under its control anywhere, for the purpose of assuring the international community of the exclusively peaceful use of those materials.

- Nuclear Suppliers Group - NSG

In 1996, Brazil became a member of this Group, which aims at contributing to the non-proliferation of nuclear weapons through the implementation of export control guidelines for items and technologies that may be used in the nuclear field and in related areas.

- Comprehensive Test Ban Treaty - CTBT

Brazil signed the treaty on September 24, 1996 and ratified it on July 24, 1998. Within the context of the Treaty and of its Preparatory Commission, Brazil works with a view to promote its early entering into force and universalization. Once in force, the CTBT will constitute a powerful means to discourage the proliferation of nuclear weapons, therefore contributing to the global efforts designed to prevent non-State actors from gaining access to weapons of mass destruction.

- Non-Proliferation Treaty - NPT

On September 18, 1998, Brazil adhered to the Non-Proliferation Treaty. As a Party to the NPT, Brazil is fully committed to the promotion of its main objective - the complete elimination of nuclear weapons. For Brazil, both nuclear disarmament and non-proliferation, as provided for in the NPT, are key elements in ensuring that non-State actors do not gain access to those weapons.

- Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction - CWC

Brazil signed the CWC on January 13, 1993 and ratified it on March 1, 1999. Since then, it has been a paragon in implementing the obligations contained in the Convention. The General Coordination Office for Sensitive Goods, within the Ministry of Science and Technology (CGBE/MCT), is the national authority in charge of supervising the application of CWC provisions in Brazil. In this context, CGBE has developed efficient channels of interaction with the national chemical industry, enabling the dissemination of knowledge on the provisions of the Convention and the necessary measures in order to ensure its implementation. These efforts contribute to the full achievement of the objectives of OPCW inspections carried out in Brazilian private facilities which are involved in activities controlled by the Convention.

- Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction (BWC)

Brazil ratified the BWC in 1973. The General Coordination Office for Sensitive Goods, within the Ministry of Science and Technology (CGBE/MCT), is the national authority in charge of supervising the application of CBW provisions in Brazil. In this context, CGBE has developed efficient channels of interaction with the industry, enabling the dissemination of knowledge on the provisions of the Convention and the necessary measures in order to ensure its implementation.

- Missile Technology Control Regime - MTCR

Brazil became a member of the MTCR in October 1995, after internal legislation on export controls of sensitive goods was adopted by means of Act No. 9.112, of October 10, 1995.

- Convention on the Physical Protection of Nuclear Material

Brazil ratified the Convention on April 16, 1991. The Convention determines the levels of physical protection necessary during international transport of nuclear materials for peaceful purposes.

- Conventions against Terrorism in the context of the United Nations and of the Organization of American States

Brazil is party to a number of treaties and conventions against terrorism in the context of the United Nations and of the Organization of American States, such as

i) Convention on Offences and Certain Other Acts Committed on Board Aircrafts;

ii) Convention to Prevent and Punish the Acts of Terrorism Taking the Forms of Crimes Against Persons and Related Extortion That Are of International Significance;
iii) Convention for the Suppression of Unlawful Seizure of Aircraft;
iv) Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation;
v) Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons;
vi) International Convention against the Taking of Hostages[36];
vii) Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation;
viii) Convention on the Marking of Plastic Explosives for the Purpose of Detection;
ix) Inter-American Convention Against the Illicit Manufacturing of and Trafficking in Firearms, Ammunition, Explosives and Related Materials; and
x) International Convention for the Suppression of Terrorist Bombing.

The National Congress is currently examining three other Conventions related to the fight against terrorism:

- Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, negotiated under the auspices of the International Maritime Organization;
- Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, under the auspices of the International Maritime Organization; and the
- International Convention for the Suppression of the Financing of Terrorism.

- United Nations Security Council Resolutions on Terrorism

Brazil has incorporated Security Council Resolution 1373 (2001) to its legal system by Presidential Decree No. 3.976, of October 18, 2001. The obligations contained therein are being strictly complied with, as reflected in the four reports sent to the UNSC Counter-Terrorism Committee since 2001.

- Convention against Transnational Organized Crime - Palermo Convention

By ratifying the Palermo Convention, in April 12, 2004, Brazil is in a position to undertake even more efficient cooperative actions in combating criminal organizations that operate on a transnational basis, with positive effects in the fight against terrorism.

[36] With the reservation provided under Article 16(2).

- Financial Action Task Force against Money Laundering - FATF

Thanks to its modern and comprehensive national legislation on money laundering and to the competent role played by the relevant governmental organs (the Council for Financial Activities Control, within the Ministry of Finance, and the Brazilian Central Bank), Brazil has attained full compliance with the 40 recommendations on combating money-laundering adopted by the FATF.

ix. Operative paragraph 8 literal (b)

(b) To adopt national rules and regulations, where it has not yet been done, to ensure compliance with their commitments under the key multilateral non-proliferation treaties;

In addition to international treaties and agreements, extensive national legislation on the nuclear, chemical and biological areas, as well as on means of delivery, is in force.

x. Operative paragraph 8 literal (d)

(d) To develop appropriate ways to work with and inform industry and the public regarding their obligations under such laws;

The General Coordination Office for Sensitive Goods, within the Ministry of Science and Technology (CGBE/MCT), and the National Commission of Nuclear Energy (CNEN) are in constant interaction with industrial sectors involved in activities related to sensitive goods and technologies, as well as with their representative associations, so as to enable the adequate dissemination of the norms, regulations and obligations that apply to their activities.

In the first semester of 2004, the Brazilian Government started implementing an initiative called "Project Sciences" ("Projeto Ciências"), carried out by CGBE/MT and by the Brazilian Intelligence Agency (ABIN), intended at informing the private sector about obligations and commitments related to export controls undertaken by Brazil at the international level, as well as stressing the need for full observance of internal legislation. This work is currently carried out through visits of Federal Government representatives to chemical industries; in the near future, these will be extended to all industries involved in activities related to sensitive goods. These contacts establish channels of interaction that enable the dissemination of criteria, procedures and control mechanisms to the private sector, while helping to preclude any undue attempts of transfer of controlled goods, services and technologies.

xi. Operative paragraph 10

Further to counter that threat, calls upon all States, in accordance with their national legal authorities and legislation and consistent with international law, to take cooperative action to prevent illicit trafficking in nuclear, chemical or biological weapons, their means of delivery, and related materials;

The participation of Brazil in the Brazil-Argentine Agency of Accounting and Control of Nuclear Material (ABACC) is the result of close cooperation and understanding with the Republic of Argentina, through which both countries committed themselves to abstain from carrying out, promoting or authorizing, directly or indirectly, or from participating in any way in the testing, use, manufacture, production or acquisition by any means of any nuclear weapon, and in the receiving, stockpiling, installing, deploying, or possessing in any other form any nuclear weapon.

In 1999, under the coordination of the Ministry of Justice, an initiative involving various governmental branches was launched in order to prevent the illicit trafficking of nuclear and radioactive materials in MERCOSUL (Argentina, Brazil, Paraguay and Uruguay, and associated members Bolivia and Chile). On June 16, 2000, as a result of this initiative, the General Plan for Reciprocal Cooperation and Coordination for Regional Security, adopted through Decision CMC No. 22/99 (XVII Council of the Common Market, Montevideo, December 7, 1999), was modified so as to include operational and coordination activities for the prevention and combating of illicit trafficking of nuclear and/or radioactive materials.

The initiatives undertaken by the Brazilian Government in the area of technology exchange with friendly countries contribute to consolidate the high priority attributed to full compliance with international treaties and agreements related to disarmament and non-proliferation, based on scientific and technological development for exclusively peaceful purposes.

Brazil reiterates, in all fora and events dedicated to the promotion of cooperation in the area of non-proliferation, the necessity of strengthening the mechanisms for the exchange of information and cooperation among States, in particular among intelligence services.

As a member of IAEA, Brazil has voluntarily adhered to the group of 75 countries that contribute to the IAEA Illicit Trafficking Data Base (ITDB), established in 1993. This Group is responsible for sharing with the IAEA information and reports related to incidents involving the trafficking of nuclear and other radioactive materials. The Bureau of the ITDB issues regular reports listing those incidents and sends them to national focal points, members of IAEA and organizations that cooperate with the Agency. CNEN is the focal point for ITDB activities in Brazil.

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Security Council

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Security Council Committee established pursuant to resolution 1540 (2004)

Note verbale dated 27 October 2004 from the Permanent Mission of Guatemala to the United Nations addressed to the Chairman of the Committee

In response to the note verbale from the Chairman of the Committee and in accordance with Security Council resolution 1540 (2004), the Permanent Mission of Guatemala is pleased to submit herewith for consideration by the Committee the report of Guatemala on the measures taken by the Government to comply with the commitments set forth in that resolution (see annex).

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Annex to the note verbale dated 27 October 2004 from the Permanent Mission of Guatemala to the United Nations addressed to the Chairman of the Committee

Report of Guatemala pursuant to Security Council resolution 1540 (2004)

The Government of Guatemala is submitting this report pursuant to Security Council resolution 1540 (2004).

1. *Decides that* all States shall refrain from providing any form of support to non-State actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery;

Reply of the Government of Guatemala

Only the Guatemalan army is authorized to use weapons of mass destruction, as specified in article 6 of the Arms and Ammunition Act. Accordingly, the Guatemalan Government could not provide support to non-State actors that attempt to use such weapons. Furthermore, article 95 of the Act establishes penalties for the illegal possession and storage of such weapons.

> "*Article 16. Arms used by the Guatemalan army.* The Guatemalan army may use any category of arms, without restriction, for the internal and external defence of Guatemala.
>
> Offensive weapons, chemical and biological weapons, explosives, materiel, nuclear weapons and weapons for special military purposes, may be used only by the Guatemalan army, provided that they are not covered by the prohibitions established in the international conventions or treaties accepted and ratified by Guatemala.
>
> Security forces belonging to or under the control of the Ministry of the Interior may possess and bear offensive weapons with the express authorization of the Department of Arms and Ammunition Control.
>
> No arms registered as State property may be used by private citizens".

All weapons-related matters are regulated by the Arms and Ammunition Act, article 4 of which states:

> "*Article 4. General arms classification.* For the purposes of this Act, arms are classified as: firearms, weapons using compressed gases, blade weapons, explosives, chemical, biological and nuclear weapons, missiles, mines and experimental weapons".

Illegal possession is punishable under the Act. In this regard, article 95 of the Arms and Ammunition Act stipulates:

> "*Article 95. Illegal possession and storage of offensive firearms, explosives, chemical, biological and nuclear weapons, mines and experimental weapons.* Anyone who possesses offensive firearms, explosives, chemical, biological and nuclear weapons, mines and experimental weapons without

authorization from the Department of Arms and Ammunition Control shall be guilty of the offence of illegal possession and storage of such arms.

Persons committing this offence shall be punishable by 8 to 12 years' imprisonment and confiscation of the arms".

2. *Decides also* that all States, in accordance with their national procedures, shall adopt and enforce appropriate effective laws which prohibit any non-State actor to manufacture, acquire, possess, develop, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery, in particular for terrorist purposes, as well as attempts to engage in any of the foregoing activities, participate in them as an accomplice, assist or finance them;

Reply of the Government of Guatemala

Guatemalan legislation includes the following provisions:

Penal Code

"*Article 391. Terrorism.* Any person who, for the purpose of undermining the constitutional order or disrupting public order, commits acts designed to cause a fire or destruction or to bring about rail, sea, river or air disasters shall be punishable by five to 15 years' imprisonment.

If highly destructive explosive materials are used to commit this crime or if death or serious injury of one or more persons results therefrom, the perpetrator shall be punishable by 10 to 30 years' imprisonment".

"*Article 398. Illegal armed groups.* Any persons who organize, form or direct armed groups or militias other than those of the State shall be punishable by three to 10 years' imprisonment.

The same penalty shall be imposed on any persons who assist such groups or provide financial support for them".

Arms and Ammunition Act
(Decree-Law No. 39-89)

"*Article 81. General prohibitions* (as amended by article 25 of Decree-Law No. 74.90). Prohibits private individuals from manufacturing, importing, possessing and bearing:

(a) Offensive firearms, offensive blade weapons except for collector's bayonets, explosives, chemical, biological and nuclear weapons, mines and experimental weapons;

(b) Noise reducers, mufflers and silencers and ammunition appropriate for using with them;

(c) Mechanisms for conversion to nuclear use;

(d) Devices for shooting weapons covertly, such as attaché cases, jewellery cases, pencil cases, books and the like;

(e) Ammunition exclusively for military use or ammunition altered or poisoned with chemical or natural substances".

"*Article 93. Illegal possession of offensive firearms, explosives, chemical, biological and nuclear weapons, mines and experimental weapons.* Anyone who possesses one or more of the following without authorization: offensive firearms, explosives, chemical, biological and nuclear weapons, mines and experimental weapons shall be guilty of the offence of illegal possession of such arms.

Persons committing this offence shall be punishable by six to eight years' imprisonment and confiscation of the arms".

"*Article 95. Illegal possession and storage of offensive firearms, explosives, chemical, biological and nuclear weapons, mines and experimental weapons.* Anyone who possesses offensive firearms, explosives, chemical, biological and nuclear weapons, mines and experimental weapons without authorization from the Department of Arms and Ammunition Control shall be guilty of the offence of illegal possession and storage of such arms".

"*Article 97. Illegal bearing of offensive blade weapons* (last paragraph amended by article 29 of Decree-Law No. 74-90). Anyone who bears offensive blade weapons shall be guilty of the offence of carrying such arms.

Persons committing this offence shall be punishable by one to three years' imprisonment and confiscation of the arms".

"*Article 110. Validity of the current regulations on explosives.* The regulations for the import, storage, transport and use of explosives for industrial purposes and of devices for detonating them, as contained in Governmental Decision No. 14-74 of the Ministry of National Defence and its amendments, shall remain valid until the new regulations on this subject enter into force, in accordance with the Restricted Substances Act (Decree-Law No. 123-85)".

Act on the control, use and application of radioisotopes and ionizing radiation

"*Article 5. Object.* The object of this Act is to control, monitor and oversee all activities related to the use of radioisotopes and ionizing radiation in their various fields of application, in order to protect the health, property and environment of the inhabitants of the Republic, and the property of the State".

"*Article 6. Scope.* This Act shall apply throughout the national territory to individuals or legal entities, whether nationals or foreign, and to State institutions and decentralized, autonomous or semi-autonomous entities that carry out any of the following activities: installing and/or operating equipment that generates ionizing radiation, irradiating food and other products, producing, using, handling, applying, transporting, marketing, importing, exporting or processing radioactive substances, or other activities related thereto".

Chapter II
Competence

"*Article 7. Competent office.* The Department of Energy shall be the office of the Ministry of Energy and Mines competent, on behalf of the

Government, to control, monitor, oversee and establish the minimum safety standards that must be observed in activities involving radioisotopes and ionizing radiation covered under article 6".

"*Article 8. Functions and powers of the Department.* In addition to those laid down in other legal texts, the functions and powers of the Department shall be as follows:

1. Ensure compliance in the national territory with this Act and its regulatory provisions, as well as with treaties, conventions and other international agreements in the field of nuclear energy that have been signed and ratified by the State.

2. Ensure compliance with the technical requirements necessary for the safe operation of radioactive facilities.

3. Serve as liaison with international and other bodies involved with nuclear energy.

4. Formulate and propose to the Ministry plans for research into and the development and application of nuclear energy.

5. Promote and design programmes for research into and the application of nuclear energy and disseminate the results obtained, with a view to fostering the country's development.

6. Propose to the Ministry the norms it deems necessary in relation to the activities governed by this Act, which subject to its adoption by governmental decision, shall be generally observed.

7. Request, receive, distribute and coordinate within the country technical assistance, advice and other services provided by international agencies, other institutions and cooperating countries with respect to the use of nuclear energy, ensuring that the assistance provided is used appropriately for the benefit of national interests.

8. Set minimum conditions aimed at protecting the population and the environment against the risks associated with the use of radioisotopes and ionizing radiation.

9. Issue resolutions, opinions, decisions and rulings on activities within its sphere of competence.

10. Grant licences for the production, use, handling, transport, marketing, import, export and application of radioactive substances and for the establishment and operation of radioactive facilities.

11. Take whatever measures and decisions it deems necessary in emergency situations to prevent or minimize damage to health, property and the environment.

12. Research, promote and develop product irradiation for preservation, sterilization and other purposes.

13. Impose the penalties laid down in this Act and its regulatory provisions.

14. Such other functions and powers as are assigned to it under laws and regulations and those which, although not specified, are inherent in its functions and powers".

Chapter IX
Prohibitions

"*Article 31. Prohibitions.* It shall be prohibited to:

Use the national territory, continental shelf, territorial sea and exclusive economic zone to dump radioactive waste coming from other countries.

1. Store radioactive material in the same place as flammable, combustible, corrosive and explosive materials.

2. Destroy, seal away or in any way dispose of discarded equipment containing radioactive substances, as well as any radioactive waste, without complying with the rules established by this Act and its regulatory provisions.

3. Such other prohibitions as are laid down in this Act and envisaged in its regulatory provisions shall also apply".

3. *Decides also* that all States shall take and enforce effective measures to establish domestic controls to prevent the proliferation of nuclear, chemical or biological weapons and their means of delivery, including by establishing appropriate controls over related materials, and to this end shall:

(a) Develop and maintain appropriate effective measures to account for and secure such items in production, use, storage or transport;

(b) Develop and maintain appropriate effective physical protection measures;

(c) Develop and maintain appropriate effective border controls and law enforcement efforts to detect, deter, prevent and combat, including through international cooperation when necessary, the illicit trafficking and brokering in such items in accordance with their national legal authorities and legislation and consistent with international law;

(d) Establish, develop, review and maintain appropriate effective national export and trans-shipment controls over such items, including appropriate laws and regulations to control export, transit, trans-shipment and re-export and controls on providing funds and services related to such export and trans-shipment, such as financing and transporting that would contribute to proliferation, as well as establishing end-user controls, and establishing and enforcing appropriate criminal or civil penalties for violations of such export control laws and regulations;

Reply of the Government of Guatemala:

Although no substances that could be used to manufacture chemical, biological or nuclear weapons are produced in Guatemala, there is legislation to control the import and export of such substances for use in other fields on the national territory.

Restricted Items Act and its implementing regulations
Decree-Law No. 123-85

"*Article 3. Explosives for industrial purposes.* Explosives for industrial purposes are considered to be all those that are not reserved exclusively for use by the Guatemalan army and whose use is authorized by the Ministry of National Defence, subject to approval by the National Defence General Staff, according to their characteristics and the purposes of their use".

"*Article 4. Conditions for applicants.* Individuals applying for any of the licences governed by these regulations must be Guatemalan by origin, in accordance with article 144 of the Political Constitution of the Republic of Guatemala. If the applicant is a legal entity and the purpose is related to the Restricted Items Act, it must be incorporated as a Guatemalan commercial company operating in conformity with the requirements of the Guatemalan Commercial Code, and at least 60 per cent of its authorized corporate capital must belong to partners who are Guatemalan by origin. If it is a limited company, only bearer shares, not registered shares may be issued".

"*Article 5. Requirements.* Individuals or entities interested in obtaining a licence for an activity involving the manufacture, processing, import, export, storage, transport, acquisition, transfer and use of restricted items mentioned in article 2 of these regulations must apply to the Ministry of National Defence. The application must be made using the forms prepared for this purpose by the Ministry of National Defence and must in each case comply with the following requirements, in addition to those established by these regulations:

1. Indicate the name of the authority to which it is addressed.

2. Give the applicant's full names and surnames, age, marital status, nationality, profession or activity, domicile, and address for receipt of notices; if the applicant is a legal entity, the aforementioned information shall be that of its duly accredited legal representative.

3. Be made in precise terms and fulfil the requirements of these regulations for each individual licence.

4. Indicate the place and date and bear a signature.

5. If the applicant is an individual, be accompanied by the following documents:

(a) Certified photocopy of the business licence;

(b) Original of the document attesting that the applicant has no criminal or police record;

(c) Certified photocopy of the residence card.

6. If the applicant is a legal entity, be accompanied by:

(a) Certified photocopy of the first attestation of the articles of incorporation and any amendments thereto duly registered in final form in the General Commercial Register of the Republic;

(b) Certified photocopy of the business licence;

(c) Certified photocopy of the designation of the legal representative".

"*Article 6. Procedure.* Once the application has been submitted and the requirements established in the preceding article have been fulfilled, the following procedure shall be followed:

1. The Ministry of National Defence shall forward the dossier to the National Defence General Staff.

2. The National Defence General Staff shall verify such information as it deems necessary and request the opinion of the Corps of Engineers of the Guatemalan army. The Corps of Engineers shall conduct the corresponding inspections, determine whether the material which is the subject of the application is a restricted item and shall set the amount of the insurance based on the tables authorized by the Ministry of National Defence. The original of the insurance policy must be submitted to the Corps of Engineers for attachment to the corresponding dossier.

3. Subsequently, the dossier shall be forwarded to the army's legal department for the corresponding legal opinion.

4. Once the procedure is completed, the Ministry of National Defence shall, if appropriate, authorize the corresponding licence and shall return the original of the insurance policy to the applicant; a certified copy thereof shall be placed in the archives of the Ministry's Department of Restricted Items".

"*Article 7. Other opinions.* For technical, practical and safety reasons, before the requested licence is granted or denied, the Ministry of National Defence may request an opinion from any of its own offices or those of any other Ministry. The Ministry of National Defence may also refuse to grant the licences provided for under these regulations for reasons of national security".

"*Article 8. Specific import requirements.* Applications for licences to import restricted items must in addition to the requirements set out in articles 5 and 6 above, comply with the following:

1. Indicate the quantity, grade, quality, weight, brand, number, expiration date and other characteristics of the restricted item.

2. In the case of detonators, the quantity, grade, brand, expiration date and other identifying data for each item.

3. The reason for importing the item.

4. The country it is coming from and the port of loading.

5. The name of the company or person in whose name it is being shipped.

6. The registration number of the ship or vehicle and the name of the shipping company.

7. The port or customs office of entry.

8. The place where they will be stored".

"*Article 9. Authorization for direct import.* Subject to fulfilment of the requirements in articles 5 and 6 of these regulations, the Ministry of National Defence may authorize the import of chlorates directly by and on behalf of individuals or legal entities engaged in the activities indicated below, for use exclusively in manufacturing their products:

1. Manufacture of matches.

2. Manufacture of paper pulp".

"*Article 11. Requirements for import with a licence.* For each import, individuals and legal entities with the necessary licence need only request the corresponding authorization from the Ministry of National Defence, attaching certified photocopies of the licence and the other documents listed in articles 5 and 6 of these regulations".

"*Article 12. Specific export requirements.* Applications for licences to export restricted items must, in addition to the requirements set out in article 6 of these regulations comply with the following:

1. Indicate the quantity, grade, quality, weight, brand, number, expiration date and other characteristics of the restricted item.

2. In the case of detonators, the quantity, grade, brand and other identifying data for each item.

3. The country to which the product will be exported and the port or customs office of departure.

4. The name of the company or person in whose name it is being shipped".

"*Article 14. Requirements for export with a licence.* For each export, individuals and legal entities with the necessary licence must request the corresponding authorization from the Ministry of National Defence, attaching a certified photocopy of the licence, and must comply with the requirements set out in articles 5 and 13 of these regulations".

"*Article 15. Manufacture by the State.* Only the Stste is authorized to manufacture explosives for industrial purposes and detonators. However, individuals or legal entities that are in partnership with the State or its decentralized, autonomous or semi-autonomous entities for such purposes may manufacture them, under the supervision of the Ministry of National Defence, provided that they fulfil the requirements set out in this chapter".

"*Article 16. Specific requirements for manufacture or processing.* Applications for licences to manufacture or process restricted items must, in addition to fulfilling the requirements set out in article 5 of these regulations, comply with the following:

1. Indicate the exact location of the plant where the manufacture or processing of the restricted items will take place.

2. Attach a location plan, on a minimum scale of 1:500, showing the entire site with existing and future buildings, the transport and electricity grids and a full projection of the perimeter fence. Also attach a set of blueprints and a description of al! the buildings that will belong to the manufacturing plant, indicating the size, construction and materials used, and an environmental impact study.

3. State the type of restricted items that the applicant plans to manufacture or process and the maximum monthly capacity, as well as the quantities that will be stored at any one time in the plant or in an authorized storage area.

Include a description of manufacturing methods and of the full operation of the machinery and equipment to be used.

4. Provide a technical description of the processing or manufacturing process.

5. Provide a description and diagram of the structure and safety features of the facilities.

6. Provide a list of the personnel who will be involved in the process of manufacturing or processing the restricted items, their identity number and home address, to be updated whenever changes are made".

"*Article 17. Location of plants.* Plants covered by this chapter shall be built at a distance of no less than 1,000 metres from populated areas, schools, churches, fuel retailers, buildings in general, housing and similar structures".

"*Article 18. Specific opinion.* When the brand, type and characteristics of the restricted item to be manufactured or processed are new or not well known, the Ministry of National Defence shall request an opinion from the National Defence General Staff".

"*Article 19. Application requirements for the fireworks industry.* Individuals or legal entities habitually engaged in the fireworks industry must, for that purpose, submit the corresponding application that complies with the requirements set out in article 5 of these regulations, indicating the amount of gunpowder they plan to manufacture per month, and must also comply with the following provisions:

1. They must manufacture the black powder they need to make their products with due authorization from the Ministry of National Defence.

2. To manufacture black powder, they shall use solely and exclusively a mixture of saltpetre, charcoal and sulphur, the proportions of which may vary according to the intended use.

3. They may add substances that produce colour when the powder ignites, but gunpowders prepared from substances treated with pyroxilin shall be absolutely prohibited. They must submit the corresponding application that complies with the requirements set out in article 5 of these regulations, indicating the amount of gunpowder they plan to manufacture per month".

"*Article 20. Validity of the authorization.* The authorization referred to in the preceding article shall be renewable for a period of one year, such renewal to be requested before the authorization expires. To that end, the Corps of Engineers of the Guatemalan army, in accordance with the tables authorized by the Ministry of National Defence and the amount of gunpowder to be manufactured shall determine the amount of the insurance and the Ministry of National Defence shall be responsible for supervising and ordering the corresponding measures for this activity".

"*Article 24. Requirements for the storage of restricted items.* Applications for licences to store restricted items must comply with the requirements set out in articles 5 and 6 of these regulations and the applicant must indicate whether the powder magazines, storage containers, warehouses and/or storerooms are temporary or permanent".

"*Article 25. Maintaining facilities for explosives.* Powder magazines, storage containers, warehouses and/or storerooms for restricted items must be regularly maintained to prevent the growth of weeds around them while ensuring that fire extinguishers are kept in perfect condition, materials are carefully stowed to permit proper ventilation and walls, floors, roofs and ventilation systems are kept in a good state of repair".

"*Article 26. Storage of industrial explosives.* Restricted items that are not considered industrial explosives must be kept in a safe place to avoid the risk of accidents. In all cases, the Corps of Engineers of the Guatemalan army shall determine whether the restricted item should be stored in an authorized powder magazine, storage container, warehouse and/or storeroom".

"*Article 27. Storage of restricted items in military facilities.* Restricted items belonging to individuals or other State bodies shall not be stored in powder magazines, storage containers, warehouses and/or storerooms of military units, zones, bases or offices, except in special cases duly justified and authorized by the National Defence General Staff, in which case users must pay the cost of the storeroom, in accordance with the tables prepared by the Corps of Engineers and authorized by the Ministry of National Defence in a Ministerial Decision".

"*Article 28. Prohibition.* It is categorically prohibited to store potassium chlorate in places where fireworks are manufactured; it must be stored in appropriate warehouses authorized by the Ministry of National Defence".

"*Article 29. Structures for the storage of restricted items.* For the construction of new buildings for the storage of restricted items, the following documentation must be submitted to the Ministry of National Defence:

1. Blueprints for the planned powder magazines or storerooms, which shall be submitted to the Corps of Engineers of the Guatemalan army for approval.

2. A certified photocopy of the property deed or lease for the building, as the case may be.

3. The corresponding safety survey prepared by an expert".

"*Article 30. Authorization of new buildings.* Once construction of the powder magazines, storage containers, warehouses and/or storerooms is concluded, the interested party must apply to the Ministry of National Defence for their approval and authorization. The interested party may later request a licence for the storage of restricted items".

"*Article 31. Temporary structures.* In the case of temporary powder magazines, storage containers, warehouses and/or storerooms, the relevant provisions of this chapter shall also apply".

"*Article 32. Approval of pre-existing structures.* Powder magazines, storage containers, warehouses and/or storerooms already built at the time of entry into force of these regulations shall be subject to approval by the Corps of Engineers of the Guatemalan army and the procedure authorizing the corresponding storage licence can then follow".

"*Article 33. Public safety.* The powder magazines, storage containers, warehouses and/or storerooms referred to in these regulations may not be built

at a distance of less than 1,000 metres from populated areas and must fulfil minimum safety requirements to be determined by the Corps of Engineers in each case. The individual or legal entity in whose name the corresponding licence was issued shall be liable for any damages that may arise".

"*Article 34. Temperature of storage facilities.* The temperature of powder magazines, storage containers, warehouses and/or storerooms must not exceed 30 degrees centigrade (30° C); accordingly, the corresponding thermometers must be installed and a sufficient number of mechanical fans, air and humidity extractors and/or ventilation blocks must be placed in appropriate locations in order to normalize the temperature in case it gets too hot inside the storage area".

"*Article 35. Minimum safety equipment in storage facilities.* Powder magazines, storage containers, warehouses and/or storerooms must be equipped with lightning conductors and automatic and mechanical fire extinguishers in good working order".

"*Article 36. Preventive safety measures in storage facilities.* In powder magazines, storage containers, warehouses and/or storerooms, the following preventive measures must be observed:

1. Explosives for industrial use must be kept in separate buildings from percussion caps and other detonating devices.

2. On stormy days, storage facilities must be kept completely shut.

3. When light must be used inside storage areas, incandescent lanterns and lamps must be used.

4. Explosive materials and similar substances must be moved periodically so as to keep them in good condition.

5. Technical staff of the Corps of Engineers of the Guatemalan army must conduct a physical inspection at least once yearly to ensure that explosive materials and similar substances are in good condition, especially those that have been stored for a long period.

6. Only explosive materials and similar substances may be stored; in no circumstances may other materials of a different kind be stored, still less those whose composition may cause them to combine with others, potentially giving rise to explosions.

7. Before the facility can be cleaned or repaired, materials must be moved to another storage area fulfilling the requirements laid down in this chapter.

8. The owners of powder magazines, storage containers, warehouses and/or storerooms for explosive materials and similar substances are obliged to inform the Ministry of National Defence immediately when materials stored therein show signs of decomposition".

Act on the Control, Use and Application of Radioisotopes and Ionizing Radiation, Decree-Law No. 11-86

"*Article 7. Competent office.* The Department of Energy is the office of the Ministry of Energy and Mines competent, on behalf of the Government, to

monitor, oversee, inspect and establish minimum safety standards for the activities indicated in article 6 on radioisotopes and ionizing radiation".

In addition, the Department of Energy prepares the semi-annual technical report to the Agency for the Prohibition of Nuclear Weapons in Latin America and the Caribbean (OPANAL) guaranteeing that no activities that might lead to a non-peaceful use of nuclear energy (for example, the manufacture of dirty bombs) have been carried out in Guatemala.

Obligations arising from the Treaty of Tlatelolco

Guatemala, as a State party to the Treaty for the Prohibition of Nuclear Weapons in Latin America (Treaty of Tlatelolco), meets its obligations under that instrument.

In that connection, it presents to the Agency for the Prohibition of Nuclear Weapons in Latin America and the Caribbean (OPANAL) and the International Atomic Energy Agency (IAEA), for their information, semi-annual reports declaring that no activity prohibited under the Treaty has taken place in the territory of Guatemala.

Radioactive Waste Management Regulations — Governmental Decision No. 559-98

"*Article 10. Ministerial responsibilities.* The Ministry of Energy and Mines shall have the power, based on an opinion issued by the Department of Energy when the circumstances so warrant, to authorize the national repository permanently to store radioactive waste having a long half-life, taking into account the environmental impact studies carried out for such repository".

"*Article 11. Responsibilities of the Department.* The Department shall have the following responsibilities:

"(a) Manage long-half-life radioactive waste so long as there is no other entity authorized to do so;

"(b) Have at its disposal a centralized repository that will make it possible safely to confine such waste so long as no permanent national storage facility exists. Note that at present the National Centre for Radioactive Waste (CENDRA), in the facilities of the Energy Department, is available;

"(c) Authorize facilities by means of a licence for radioactive waste management, for which purpose such facilities shall be considered class 1 radioactive facilities under article 11 of Governmental Decision No. 989-92 of 1 December 1992;

"(d) To apply for a radioactive waste management licence it shall be necessary to satisfy, insofar as is applicable, the provisions of article 13 of the above Decision;

"(e) Workers exposed during radioactive waste management activities must hold a licence, depending on the case, under articles 22, 23 or 24 of the Decision;

"(f) The duration and renewal of licences shall be in accordance with chapter VI of the Decision".

"*Article 5. Storage, disposal and deposit of radioactive waste within the national territory.*

"(a) Pursuant to article 31 of the Act, it is prohibited to use the national territory, continental shelf, territorial sea or exclusive economic zone to dump radioactive material or waste coming from other countries;

"(b) Radioactive waste or discarded equipment containing radioactive material shall not be released, confined or disposed of without compliance with the rules deriving from these regulations".

"*Article 6. Return of radioactive sources no longer in use.* With regard to the return of radioactive sources no longer in use, the following aspects must be considered:

"(a) Any radioactive source having a half-life greater than five years which enters the country must be returned by its owner to its country of origin or another country that so agrees;

"(b) Only in special cases, duly substantiated by the Department, in which the waste cannot be returned as provided in the preceding subparagraph shall the Department's radioactive waste treatment unit be required to ensure the management and disposal of such radioactive waste, the expense incurred being payable by the owner".

"*Article 7. Prohibition against the release of radioactive waste into the environment.* No facility or user is authorized to release or discharge radioactive waste in any form into the environment without authorization from the Department".

"*Article 19. Certification of radioactive waste removal.* All users must provide proof to the Department that they have a contract or agreement for the periodic removal of radioactive waste having a long half-life with the entity authorized to manage such waste. The periodicity of such removal shall be fixed by the Department in the relevant licence".

"*Article 20. Transport or transfer of radioactive waste.* All users must inform the Department, in writing and in advance, of any transport or transfer of their radioactive waste outside their authorized storage facility, except where such waste is covered by a contract or agreement as provided in the preceding article".

"*Article 25. Registration procedures.* Any facility in which radioactive waste is generated must keep a register, approved by the Department, in which all movements of such waste are recorded. The register must be available for inspection and must permit the following information to be obtained:

"(a) Date of production of the radioactive waste;

"(b) Classification of the radioactive waste;

"(c) Name and location of the place where the radioactive waste was produced;

"(d) Initial activity of the radionuclides involved;

"(e) Date on which the radioactive waste was confined in the facility's temporary repository;

"(f) Date on which the radioactive waste was released or transferred;

"(g) Code of any radioactive waste transferred to the Department's waste treatment unit;

"(h) Registration number, code or batch corresponding to the label;

"(i) Identification of the sealed source returned to its country of origin;

"(j) Name and signature of the person responsible for segregation;

"(k) Name and signature of the person responsible for filling in the register".

"*Article 32. Transport of radioactive waste outside the facility.* The transport or transfer of waste outside the facility shall be subject to the IAEA Regulations for the Safe Transport of Radioactive Material until such time as the Department has its own radioactive material transport regulations. Such regulations must be prepared by the facility's officer-in-charge of radiological protection and approved by the Department".

"*Article 33. Transport of radioactive waste inside the facility.* The transport of radioactive waste inside the facility shall not be subject to IAEA transport regulations. Nevertheless, such transport must be authorized and supervised by the facility's officer-in-charge of radiological protection".

Radiological Safety and Protection Regulations issued under the Act on the Control, Use and Application of Radioisotopes and Ionizing Radiation. Governmental Decision No. 55-2001

"*Article 26. Licences.* Only the Energy Department is the organ competent to grant, amend, extend or cancel, as the case may be, licences issued under the present regulations".

"*Article 27. Norms and guides.* With a view to specifying, spelling out and enforcing the provisions set out in the present regulations, the Department shall propose to the Ministry of Energy and Mines, for approval, such norms as it deems necessary, which must be approved by a ministerial decision, as well as technical guides, manuals, instructions, forms and other documents and any amendments thereto.

Both provisions approving the documents referred to in the preceding paragraph and any amendments thereto must, in order to be binding and command general compliance, be published in the *Diario Oficial* (Official Gazette); they shall enter into force one day after such publication".

"*Article 46. Radium-226.* No import or operating licence shall be approved for practices involving radioactive sources of radium-226 (^{226}Ra)".

"*Article 47. Lightning conductors.* No import or operating licence shall be approved for practices involving lightning conductors that use radioactive sources".

"*Article 174. Inspections.* Inspections and audits must be performed with the periodicity fixed by the Department for each case based on the type of practice. During inspections and audits the licensee must offer facilities, furnish the required information and present the requested documentation, perform tests and operations and permit the taking of sufficient samples for carrying out the relevant analyses and verifications. Once the inspection or audit begins, it may not be suspended or interrupted without an express order or authorization by the Department".

"*Article 186. Securing of sources in the event of cancellation of licences.* The suspension or cancellation of a licence covering equipment, sources or property which, owing to their nature, involve a risk to the population entails the obligation for the licence holder to guarantee to the Department, by a notarized document, the securing or deposit of sources of ionizing radiation, or equipment containing such sources, as well as any contaminated items, in such a way as not to result, under any circumstances, in public exposure that might exceed the limits set in article 72 of the present regulations. In the event of non-compliance the Department shall have the right to make the appropriate attestation to the competent authority and to take appropriate legal action".

Decree-Law No. 43-74. Act regulating the Import, Manufacture, Storage, Transport, Sale and Use of Pesticides

"*Article 1.* The purpose of the present Act is to regulate the import, manufacture, storage, transport, sale and use of pesticides in public health, agriculture and livestock production, empowering the Ministries of Agriculture, Public Health and Welfare and the Economy and Labour to establish norms for its implementation; and to establish penalties to be imposed on those who infringe these provisions".

"*Article 2.* For the purposes of this Act, 'pesticides' (insecticides, herbicides, fungicides, germicides, acaricides, avicides, bactericides, ovicides, rodenticides, repellents, attractants and any other product having a similar action) means any product or mixture of products intended to combat pests. The Ministries of Agriculture and of Public Health and Welfare are empowered to regulate the use and classification of such products".

"*Article 3.* The application of the present Act and the elaboration of the required regulations shall be the joint responsibility of the Ministries of Agriculture and of Public Health and Welfare, which may establish such inter-ministerial committees as they deem necessary, demanding their cooperation and that of any other ministries or autonomous, semi-autonomous or private entities".

"*Article 5.* The joint responsibility referred to in article 3 of this Act is understood as conferring on each of the ministries mentioned, within their respective jurisdictions, the following powers and duties:

"(a) Perform inspections and take samples at any time and in any place where the products and raw materials mentioned in article 2 are found, be they imported or manufactured or formulated in the country, for the purpose of ascertaining, through appropriate analyses, whether they contain the active and

lethal ingredients for effective pest control, in the quantities indicated in their formulas and specified on their respective labels;

"(b) Order the technical and legal measures required by the circumstances for achieving timely, efficient and appropriate use of pesticides, giving preference to the use of those that are less toxic and have short-lived residual effects.

"(d) Establish regulations and issue ministerial decisions, as needed, for the purpose of regulating, authorizing, prohibiting or denying authorization for the import, manufacture, storage, transport, sale or use of manufactured pesticides or substances needed for their manufacture, ordering any laboratory analyses that they deem relevant, as well as examination of the labels and the instructions or promotional leaflets used, so as to assure consumers of the accuracy of the information contained therein according to the purposes for which the products are intended. A further obligation is to ensure the proper labelling of containers in Spanish, emphasizing the need for labels clearly to state the name of the product, its composition, the words "risk of death" and the corresponding symbol, the antidotes to be used in case of poisoning, precautions and the period of validity or expiration date of the product;

"(e) Keep the register of pesticides, for which purpose regulations must be established stipulating the requirements, conditions and procedures appropriate to each case".

"*Article 7.* Any individual or legal entity causing damage or harm through the import, manufacture, storage, transport, sale or use of pesticides shall be held directly liable".

"*Article 11.* Any individuals or legal entities that, in applying a product mentioned herein, modify its indications or proportions, with the result that its concentration becomes harmful and causes damage, shall be liable for the damage caused".

"*Article 12.* The Ministries of Agriculture and of Public Health and Welfare shall, in their respective spheres of competence, impose sanctions on all individuals, legal entities and organizations that violate the provisions of the present Act, which shall be fined in amounts ranging from 200 to 5,000 quetzales in the case of breaches of preceptive provisions and from 200 to 2,000 quetzales in the case of breaches of prohibitive provisions. The fine may be collected by means of coercive economic measures and, in the event of a recurrence, the fine shall be doubled, provided that it does not exceed the maximum indicated, without prejudice to the cancellation of the related permit or licence should the sanctioning authority so decide".

"*Article 13.* The sanctions stipulated in the preceding article shall be without prejudice to criminal, civil or health proceedings, which shall be heard by the competent tribunals. However, in the case of minor offences, infractions and violations of the present Act or its regulations which are punishable by means of trials for minor offences in the Labour and Social Security tribunals, no administrative proceedings may be instituted".

Ministerial Decision No. 152-93. Technical supervision procedures in agricultural services, establishments for the distribution, export, manufacture, formulation, repackaging and storage of agricultural pesticides, related substances and/or fertilizers, and other similar establishments

"*Article 1.* The Plant Health Service of the Department of Agricultural Services of the Ministry of Agriculture, Livestock and Food shall proceed, through the appropriate department, either of its own initiative or at the request of a party, to carry out the necessary inspections of individuals or legal entities that conduct one or more activities such as agricultural services, distribution, import, export, manufacture, formulation, repackaging, storage or other activities involving agricultural pesticides, related substances and/or fertilizers, for the purpose of ascertaining compliance with Governmental Decision No. 377-90".

Decree-Law No. 36-98. Plant and Animal Health Act

The Ministry of Agriculture, Livestock and Food is responsible for the management and overall coordination of the public agriculture, forestry and hydrobiology sector. Through the Ministry, the Government of the Republic implements the country's sustainable development policy in defence of plant and animal health. One of the Ministry's main activities, carried on through its respective units is the monitoring of raw materials and inputs for use in agriculture and animal husbandry.

"*Article 6.*

"(d) Prevent the introduction and dissemination of pests and diseases that threaten food security, agricultural, forestry and hydrobiological production and international trade in the related products;

"(f) Regulate the use, handling, manufacture, storage, marketing, registration, import, quality and residues of chemical, chemicopharmaceutical, biological and related substances for specific use in agricultural, forestry and hydrobiological activities;

"(k) Issue technical standards for the movement, transfer, export and import of plants and animals and of unprocessed agricultural and hydrobiological by-products;

"(m) Disseminate phytosanitary and zoosanitary standards and procedures by all necessary means with a view to promoting national and international trade in animals, plants and unprocessed products and by-products".

"*Article 11.* The Ministry of Agriculture, Livestock and Food shall be responsible for carrying out and coordinating action for the implementation of regulatory procedures and standards in the movement of plants, unprocessed products and by-products of plant origin, means of transport, equipment and inputs for agricultural use, in order to prevent the entry or the spread and establishment in the country of exotic pests. The specific measures to be carried out shall be established by related regulations".

"*Article 20.* The Ministry of Agriculture, Livestock and Food shall establish the norms, procedures and regulations for entry into and transport to

and within the national territory of animals, pharmaceuticals, biological and hydrobiological products, raw materials, unprocessed products and by-products of animal origin and equipment and materials for use in animal husbandry, in order to prevent the entry or the spread and establishment in the country of diseases, pests, contaminants and other pathogens that may affect animal health and biodiversity. For that purpose, the Ministry shall have the powers and duties established in the relevant regulations".

Governmental Decision No. 745-99. Regulations for the implementation of the Plant and Animal Health Act

"*Article 23.* The import and export of plants, animals, plant and animal products and by-products and inputs for use in agriculture and animal husbandry shall be subject to compliance with the provisions of these regulations and other regulations issued by the Ministry of Agriculture, Livestock and Food for that purpose by means of ministerial decisions".

"*Article 24.* The import of plants, animals, plant and animal products and by-products and inputs for use in agriculture and animal husbandry shall require a phytosanitary or zoosanitary permit, as the case may be, as well as a permit or licence in the case of inputs, which shall be granted to the person concerned upon application to the Unit, as established by the Ministry of Agriculture, Livestock and Food. Applications for such permits or licences must be submitted to the Unit by the person concerned prior to the arrival of the product in the country".

"*Article 27.* Any person coming from outside the country who brings with him plants, animals, plant or animal products or by-products and inputs for use in agriculture or animal husbandry shall be obliged to declare them to the competent authorities for the purposes of compliance with the provisions contained in the present Regulations".

"*Article 28.* The introduction into the country, in diplomatic pouches, of plants, animals, plant or animal products or by-products and inputs for use in agriculture or animal husbandry shall be subject to the provisions of the present Regulations and the related regulatory norms".

"*Article 37.* Prior to the issuance of an international phytosanitary or zoosanitary certificate for the export of plants, animals or plant or animal products or by-products, the applicant must present the record of inspection and treatment of the product, where required by the importing country. In the case of animals, the corresponding health and vaccination certificate must also be presented".

Ministerial Decision No. 631-2001: Regulations for the registration of individuals or legal entities interested in conducting activities linked to agricultural inputs and for the registration, processing, import, return and export of such inputs

"*Article 1.* The purpose of this Decision is to establish the legal requirements applicable to individuals or legal entities that import, export, formulate, manufacture, develop, store, transport, assemble, bottle, rebottle, package, repackage, mix, distribute and sell inputs for agricultural use, as well

as other specific requirements for the registration of inputs for agricultural use".

"*Article 12.* The general and specific requirements for the registration of inputs for agricultural use for experimental purposes in either laboratory or field tests are hereby established".

With regard to border controls, the Superintendency Tax Administration (SAT) has worked with representatives of port enterprises on the issue of certification of ports. Such certification was received on 21 June 2004. At the request of port enterprises, the following points were dealt with:

- Construction of a perimeter fence at the Santo Tomás de Castilla customs building;
- Development of standards and procedures relating to rules for access to and exit from buildings occupied by the Tax Administration;
- Development of contingency and evacuation plans and procedures;
- Development of health and safety rules and installation of the necessary equipment (extinguishers, signalling of evacuation routes, smoke detectors, and masks for staff who may come into contact with dangerous goods);
- Training in aspects of industrial safety and first aid for maritime customs personnel.

The Tax Administration also takes part in the evaluation and follow-up of measures implemented in areas under its authority.

As for effective border controls, the Technical Department of the Customs Administration, together with the Ministry of Public Health and Social Welfare, the National Civil Police through the Anti-Drug Unit (SAIA), the Ministry of National Defence and the Executive Secretariat of the Commission against Addiction and Illicit Drug Trafficking, is a member of the Technical Committee on Chemical Precursors. Those institutions coordinate a committee for the inspection of enterprises that import chemical precursors, with a view to monitoring the handling and use of those substances.

6. *Recognizes* the utility in implementing this resolution of effective national control lists and calls upon all Member States, when necessary, to pursue at the earliest opportunity the development of such lists;

Reply of the Government of Guatemala

The Ministry of National Defence is responsible for explosives and restricted items, which are regulated by Decree-Law No. 123-85, containing the Restricted Items Act and its implementing regulations.

Article 2. Restricted items. The following are restricted items: chlorates, nitrates, explosives, explosive cartridges, percussion caps, gunpowder and other materials which may be used for the manufacture of explosive devices, provided that they are classified as restricted items by agreement of the Ministry of National Defence, such as:

2. Sulphuric acid
3. Nitric acid
4. Picric acid (trinitrophenol)
5. Powdered aluminium
6. Acids
7. Chlorites
8. Dinitrophenol
9. Nitrate and nitrified derivatives
10. Potassium chloride
11. Dinitrotoluene
12. Tri-n-butyl-meta p-xylene
13. Tri-m-methylethanolamine (Tetryl-Tetralite)
14. Trinitrotoluene
15. Other nitrified derivatives
16. Mixed derivatives
17. White, red and amorphous phosphorus
18. Mercury fulminate
19. Calcium hypochlorites
20. Sodium hypochlorites
21. Other nitrates
22. Ammonium nitrate
23. Sodium nitrate
24. Lead nitrate
25. Calcium nitrate
26. Calcium and magnesium nitrate
27. Potassium nitrate
28. Sodium nitrate (saltpetre)
29. Bismuth nitrate
30. Other nitrites
31. Sodium nitrite
32. Other nitrocelluloses
33. Nitroglycerine
34. Nitrobenzene
35. Pentrite

36. Sodium perchlorate
37. Other sodium permanganates
38. Ammonium sulphate
39. Potassium sulphate
40. Magnesium sulphate
41. Potassium sulphide
42. Toluene
43. Other materials which may be used for the manufacture of explosive devices and which are classified as such by the Ministry of National Defence.

The Ministry of Energy and Mines oversees the energy area. The use or import of sources of radium-226, plutonium and uranium-235 is prohibited.

The Ministry of Public Health and Social Welfare is responsible for controlling chemicals used by the pharmaceutical industry. For that purpose, it has the following list of substances that require import or export certificates:

Narcotic drugs

- Buprenorphine
- Cocaine hydrochloride
- Codeine hydrochloride
- Codeine phosphate
- Codeine sulphate
- Codeine
- Dextropropoxyphene
- Diphenoxylate
- Ethylmorphine
- Fentanyl
- Hydrocodone
- Morphine hydrochloride
- Morphine sulphate
- Tincture of opium benzoate
- Opium powder
- Oxycodone
- Pethidine

Psychotropic substances

- **Alprazolam**
- **Amfepramone**
- **Barbital**
- **Bromazepam**
- **Chlordiazepoxide**
- **Clobenzorex**
- **Clobazam**
- **Clonazepam**
- **Clorazepate**
- **Cloxazolam**
- **Diazepam**
- **Estazolam**
- **Ethylamphetamine**
- **Phenobarbital**
- **Phentermine**
- **Fenproporex**
- **Flunitrazepam**
- **Flurazepam**
- **Halazepam**
- **Haloxazolam**
- **Ketazolam**
- **Ethyl loflazepate**
- **Loprazolam**
- **Lorazolam**
- **Lorazepam**
- **Mazindol**
- **Medazepam**
- **Meprobamate**
- **Methylphenidate**
- **Midazolam**
- **Nitrazepam**
- **Secobarbital**
- **Tetrazepam**

– Triazolam

– Zolpidem

Precursors (applies only to pure substances and not to preparations containing these substances and compounded in such a way that the substances cannot readily be used or recovered)

Schedule I

– N-Acetylanthranilic acid

– Lysergic acid

– Ephedrine

– Ergometrine

– Ergotamine

– 1-phenyl-2-propanone

– Isosafrole

– 3,4-methylenedioxyphenyl-2-propanone

– Horephedrine

– Piperonal

– Safrole

– Pseudoephedrine

Schedule II

– Acetone

– Anthranilic acid and its salts

– Hydrochloric acid

– Phenylacetic acid

– Sulphuric acid

– Acetic anhydride

– Ethyl ether

– Methyl ethyl ketone

– Potassium permanganate

– Piperidine

– Toluene

Schedule III

Substance	*Synonym*
Potassium hydroxide	Caustic potash
Sodium hydroxide	Caustic soda
Sodium sulphate	Dissodium sulphate
Potassium carbonate	Neutral potassium carbonate
Sodium carbonate	Soda ash, neutral sodium carbonate soda ash
Hexane	Ordinary hexane
Benzene	
O-xylene	1,3 Dimethylbenzene
M-xylene	1,4 Dimethylbenzene
P-xylene	1,5 Dimethylbenzene
Methylene chloride	Dichloromethane
Methyl Isobutly Ketone	Isoprypyl acetone MIBK
Acetyl chloride	Ethane dioylchloride
Ammonium chloride	Ammonium muriate
Ammonium hydroxide	Aqueous ammonia
Benzaldehyde	Benzoic aldehyde
Benzal chloride	Methylbenzene chloride
	Alphachlorotoluene
1 Benzal cyanide	2, Benzene acetonitride
Phenylacetonitrite	Alphatoluenenitrile
Bromebenzol cyanide	Bromobenzenzoacetoritrile
Calcium hyrdoxide	Calcium hydrate
	Cal hydrate
Calcium oxide	Lime, quicklime
Cyclohexanone	Pimelic Ketone
	Ketohexamethylene
Acetic acid	
Diethylamine	Diethyl amine
Ethyl alcohol	Ethanol, anhydric alcohol
Formamide	Methenamine
Formic acid, its salts and their derivitives	Methanoic acid
Iodine	
Isobutyl alcohol	2-methyl-1-propanol
Isopropyl acetate	Acetate propyl
Asoprophyl alcohol	2-Propanol, isopropanol, Dimethylcaronil, Petrohol, ipa
Kerosene	Kerosene
Methyl alcohol	Methanol, carbinol, wood alcohol
Methylamine	Monomethylamine
Sodium thio-sulphate	Permanganic, hyposulphate

7. *Recognizes* that some States may require assistance in implementing the provisions of this resolution within their territories and invites States in a position to do so to offer assistance as appropriate in response to specific requests to the States lacking the legal and regulatory infrastructure, implementation experience and/or resources for fulfilling the above provisions;

Reply of the Government of Guatemala

Guatemala occupies a very important geo-strategic position as a communication and supply channel between North and South and East and West. This facilitates the movement of all kinds of resources, including nuclear, chemical, biological or atomic weapons, or material which may be used for their proliferation. Although Guatemala is a signatory to multilateral conventions and treaties in that area, it does not have the necessary human resources trained to detect such material, nor the equipment and technology to implement proper controls.

International cooperation is therefore required to improve detection systems and train personnel of the various institutions responsible for compliance with the agreements and conventions ratified by Guatemala.

8. *Calls upon* all States:

(a) To promote the universal adoption and full implementation and, where necessary, strengthening of multilateral treaties to which they are parties, whose aim is to prevent the proliferation of nuclear, biological or chemical weapons;

Reply of the State of Guatemala

Guatemala is a State party to 11 of the 12 multilateral conventions against terrorism:

- Convention on Offences and Certain Other Acts Committed on Board Aircraft;
- Convention for the Suppression of Unlawful Seizure of Aircraft;
- Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation;
- Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents;
- International Convention against the Taking of Hostages;
- Convention on the Physical Protection of Nuclear Material;
- Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation;
- Convention on the Marking of Plastic Explosives for the Purpose of Detection;
- Organization of American States (OAS) Convention to Prevent and Punish Acts of Terrorism Taking the Form of Crimes against Persons and Related Extortion that are of International Significance;
- International Convention for the Suppression of Terrorist Bombings;

– International Convention for the Suppression of the Financing of Terrorism.

Guatemala is also a party to the following multilateral instruments relating to international terrorism:

– Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction;

– Treaty on the Non-Proliferation of Nuclear Weapons;

– Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction;

– Treaty for the Prohibition of Nuclear Weapons in Latin America and the Caribbean (Treaty of Tlatelolco);

– Safeguards Agreement between the Republic of Guatemala and the International Atomic Energy Agency (IAEA) pursuant to the Treaty on the Prohibition of Nuclear Weapons in Latin America and the Caribbean and the Treaty on the Non-Proliferation of Nuclear Weapons;

– Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal.

Guatemala is also a signatory to:

– Central American comprehensive cooperation plan to prevent and counteract terrorism and related activities;

– Framework agreement against terrorism between the countries of Central America and the Caribbean Basin;

– Joint communiqué on border security of the Presidents of the United Mexican States and Guatemala;

– Agreement on radiological safety with the United Mexican States;

– Agreement for the promotion of the peaceful uses of nuclear energy with Colombia;

– Agreement for the promotion of the peaceful uses of nuclear energy with Chile;

– IAEA Code of Conduct on the Safety and Security of Radioactive Sources.

(b) To adopt national rules and regulations, where it has not yet been done, to ensure compliance with their commitments under the key multilateral non-proliferation treaties;

Reply of the Government of Guatemala

Issues relating to weapons of mass destruction are regulated by Guatemalan legislation as contained in the following:

– Penal Code;

– Arms and Ammunition Act, Decree Law No. 39-89;

– Restricted items act and its implementing regulations, Decree Law No. 123-85;

– Act on the Control, Use and Application of Radioisotopes and Ionizing Radiation, Decree Law No. 11-86;

– Act regulating the Import, Manufacture, Storage. Transport, Sale and Use of Pesticides, Decree Law No. 43-74;

– Plant and Animal Health Act, Decree Law No. 36-98.

The following regulations are also applicable:

– Radioactive Waste Management Regulations, Governmental Decision No. 559-98;

– Radiological Safety and Protection Regulations issued under the Act on the Control, Use and Application of Radioisotopes and Ionizing Radiation, Governmental Decision No. 55-2001;

– Regulations for the implementation of the Plant and Animal Health Act, Governmental Decision No. 745-99;

– Ministerial Decision No. 152-93, Technical supervision procedures in agricultural services, establishments for the distribution, export, manufacture, formulation, repackaging and storage of agricultural pesticides, related substances and/or fertilizers, and other similar establishments;

– Regulations for the registration of individuals or legal entities interested in conducting activities linked to agricultural inputs and for the registration, processing, import, return and export of such inputs, Ministerial Decision No. 631-2001.

(c) To renew and fulfil their commitment to multilateral cooperation, in particular within the framework of the International Atomic Energy Agency, the Organization for the Prohibition of Chemical Weapons and the Biological and Toxin Weapons Convention, as important means of pursuing and achieving their common objectives in the area of non-proliferation and of promoting international cooperation for peaceful purposes;

Reply of the Government of Guatemala

As a State Member of the United Nations, Guatemala is committed to respecting the purposes and principles enshrined in the Charter of the Organization.

On 12 February 2003, Guatemala deposited with the United Nations Secretariat its instrument of ratification of the Convention on the Prohibition of Chemical Weapons. As a new State party, Guatemala designated its ambassador to the Netherlands as its permanent representative to the Organization for the Prohibition of Chemical Weapons (OPCW).

The above is evidence of Guatemala's political will to participate actively in the relevant multilateral meetings and forums.

On 19 and 20 July 2004, the first OPCW training seminar for the Guatemalan National Authority was held in Guatemala City with the participation of the following institutions: Ministry of National Defence, Ministry of Foreign Affairs, Ministry of Public Health and Social Welfare, Ministry of the Economy, Public Prosecutor's Office, Executive Secretariat of the Commission against Addiction and Illicit Drug Trafficking, Strategic Analysis Secretariat, Directorate of the National Civil Police, Anti-Drug Unit (SAIA), Tax Administration Superintendency (SAT), National Coordinating Office for Disaster Reduction, Inter-Agency Security

Coordination Mechanism, San Carlos University of Guatemala, del Valle University, Quetzal Port Authority and National Port Commission.

Guatemala signed the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction on 9 May 1972 and ratified it on 30 August 1973; it was published in the Official Gazette of 29 May 1974. Although Guatemala has no biological weapons, it has participated actively in meetings and conferences held on that issue.

(d) To develop appropriate ways to work with and inform industry and the public regarding their obligations under such laws;

Reply of the Government of Guatemala

The Government of Guatemala, through the Ministry of Foreign Affairs, has been very open in ensuring the dissemination of relevant information provided by international organizations. In that regard, it is working with Guatemalan universities by transmitting to them information and invitations to participate in different activities organized by the Organization for the Prohibition of Chemical Weapons.

9. *Calls upon* all States to promote dialogue and cooperation on non-proliferation so as to address the threat posed by proliferation of nuclear, chemical or biological weapons and their means of delivery;

Reply of the Government of Guatemala

At the international level, Guatemala is a party to the Treaty on the Non-Proliferation of Nuclear Weapons, the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on Their Destruction and the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction. It participates in all international meetings of the parties concerning the implementation of those international instruments.

At the Central American level, in the context of the Framework Treaty on Democratic Security in Central America, a plan of action has been adopted for implementing the programme for arms limitation and control in Central America to achieve a reasonable balance of forces and to foster stability, mutual trust and transparency. The objectives of the plan include the establishment of a mechanism for the verification and control of inventories in each country and at the regional level by civilian, police and military officials of the States concerned, in order to guarantee compliance with non-proliferation, limitation and security measures in arsenals, small arms and light weapons and conventional weapons.

At the national level, the first OPCW training seminar for Guatemala's National Authority was held in Guatemala City on 19 and 20 July 2004 with the participation of representatives of government institutions, port enterprises, customs offices and universities who were provided with information on international requirements for the control of certain substances and the need to create an authority at the national level to coordinate Guatemala's obligations as a State party to the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction.

10. Further to counter that threat, *calls upon* all States, in accordance with their national legal authorities and legislation and consistent with international law, to take cooperative action to prevent illicit trafficking in nuclear, chemical or biological weapons, their means of delivery and related materials;

Reply of the Government of Guatemala

Governmental Decision No. 429-2001 established an Inter-Agency Security Coordination Mechanism made up of the Ministries of Foreign Affairs, the Interior and National Defence, as well as the Strategic Analysis Secretariat which reports directly to the President of the Republic. The role of the Mechanism is to plan strategies to prevent acts of national or international terrorism from being carried out on the national territory.

With a view to establishing specific measures for the coordination of bilateral cooperation in the area of monitoring and control, the Governments of Guatemala and Mexico signed a memorandum of understanding on the establishment of a high-level border security group (GANSEF) in order to protect their common border. The group began operations on 11 October 2002; its work plan includes action in such areas as migration, human rights and border issues, international terrorism, organized crime and legal cooperation, and public safety.

The competent authorities for overall coordination of the group's operations are, for Guatemala, the Ministry of the Interior and, for Mexico, the Secretary of the Interior.

Objectives

- To combat, on the common air, sea and land borders of the two countries, movements of arms and ammunition, drug trafficking and related crimes, traffic in persons, goods and services transported illicitly, traffic in species of flora and fauna and in cultural heritage, activities related to international terrorism or other dangerous activities which could result in violence;
- To transform the border area into a safe area offering development opportunities, through cooperation in protecting of individuals and their heritage, human rights and the environment;
- To conduct an ongoing exchange of information on progress and experience in the area of security with a view to making the border area a safe area offering development opportunities;
- To coordinate the development of measures to improve security in the issuance of identity and travel documents, as well as the quality of such documents, in order to avoid forgery, alteration or unlawful use of those documents;
- To optimize customs controls at ports of departure legally established between the two countries, whether ports for land, sea or air departures, in order to ensure that international movements of arms, ammunition, explosives and sensitive materials have documentation attesting their origin and final destination.

In addition, on 11 October 2004, the Governments of Guatemala and Mexico signed a protocol establishing a bilateral early warning and response coordination

mechanism (COBART). This body is responsible for preventing, discouraging and reacting immediately to acts preparatory or accessory to or complicit with international terrorism which pose a risk or threat to their common border area.